

**TRANSPORTATION RULES
OF
GEORGIA PUBLIC SERVICE COMMISSION**

CHAPTER 3: GENERAL RULES

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3-1.1 Jurisdiction of the Commission.

Unless otherwise specifically exempted by law, the Georgia Public Service Commission has jurisdiction over all motor common and motor contract carriers, limousine carriers, railroads or railroad corporations, express companies or corporations, terminals or terminal corporations. Also, the Commission has jurisdiction over all for hire and private motor carriers and forest products carriers relative to the safe transportation of hazardous materials, and the safe operation of vehicles and their drivers. (For Utility Agency jurisdiction, see Georgia Public Service Commission Utility Rule Book)

3-1.3 Application of Rules.

The rules herein promulgated state the conditions and regulations under which carriers are permitted to operate over the highways of this State.

3-1.5 Definitions.

Unless specifically defined elsewhere, when used in this rulebook, the term—

Carrier means:

(a) For the purposes of safety and/or hazardous materials regulation, any person who owns, controls, or manages a motor vehicle subject to the jurisdiction of the Commission, including, but not limited to, for hire motor common carriers, for hire motor contract carriers, forest products carriers, limousine carriers, private carriers, and any other person subject to the Commission's safety and hazardous materials jurisdiction (ref. O.C.G.A. §46-1-1, §46-7-37, §46-7-85.1, §46-11-3); or

(b) For the purposes of insurance filing, obtaining of certificates, obtaining of permits or vehicle registrations, any person who operates a motor vehicle to transport persons or property, or both, for compensation. (ref. O.C.G.A. §46-1-1)

Carrier Class means the classification or type of certificate, permit, or registration issued to a for hire carrier pursuant to the provisions of O.C.G.A. Title 46. Carriers may have one or more of the following classifications: (See Note)

Class AF carrier means carriers of passengers operating over fixed routes consisting of designated roads and highways between fixed termini in intrastate commerce under certificates of public convenience and necessity. (Prior to July 1, 1986, certificates authorizing service as defined above were classified as “*Class A*” certificates of public convenience and necessity. As of the effective date of this rule, no new Class AF certificates will be issued by the Commission).

Class B carrier means common carriers of passengers or common carriers of household goods operating over the highways of the State of Georgia over no fixed route in intrastate commerce under certificates of public convenience and necessity.

Class G carrier means motor carriers engaged in interstate operations exempt from economic regulation by the FMCSA and operating over the highways of the State of Georgia under Re gistration Permits.

Class IE carrier means a for hire passenger carrier not using limousines as defined in O.C.G.A. § 46-7-85.1(4) transporting 10 or less passengers (ref. O.C.G.A. §46-1-1(9)(C)(xiii) and §46-7-15(a)).

Passenger Permit carrier means a motor carrier of passengers engaged in transporting more than 10 passengers (excluding driver) for compensation in charter service.

Property Permit carrier means common or contract carriers engaged in the transportation of general commodities (except household goods) operating over the highways of the State of Georgia over no fixed route.

Single State Registration carrier means common or contract carriers engaged in the transportation of general commodities or passengers in interstate commerce under the provisions of 49 U.S.C. § 13902 and 49 CFR, Part 367.

NOTE: All for hire carriers required to obtain any of the above certificates, permits, or registrations are subject to the Commission’s safety and hazardous materials rules.

Certificate means a certificate of public convenience and necessity issued by the Public Service Commission, whether interim or permanent. (ref. O.C.G.A. §46-1-1)

CFR means the United States Code of Federal Regulations, and as it may be amended from time to time in the Federal Register.

Chauffeur means any person who meets the qualifications as prescribed in O.C.G.A. §46-7-85.10 and who is authorized by the Public Service Commission to drive a limousine. (ref. O.C.G.A. §46-7-85.1)

Commission means the Public Service Commission. (ref. O.C.G.A. §46-1-1)

Company means a corporation, a firm, a partnership, an association, or an individual. (ref. O.C.G.A. §46-1-1)

FHWA means the Federal Highway Administration and any successor agencies of the United States Department of Transportation

FMCSA means the Federal Motor Carrier Safety Administration and any successor agencies of the United States Department of Transportation

For hire means any activity wherein for compensation a motor vehicle and driver are furnished to a person by another person, acting directly or knowingly and willfully acting with another to provide the combined service of the vehicle and driver, and includes every person acting in concert with, under the control of, or under common control with a motor carrier who shall offer to furnish transportation for compensation. (ref. O.C.G.A. §46-1-1)

Forest products carrier means a carrier engaged in the transportation of unmanufactured forest products whose vehicles are subject to the safety jurisdiction of the Commission pursuant to O.C.G.A. §46-1-1(9)(C)(x) or §46-1-1(13)(A). For Forest Products Trucking Rules, see Subchapter 4-3 of these Transportation Rules.

Forest products trucking rules means the rules and regulations governing forest products carriers promulgated pursuant to O.C.G.A. §46-1-1(9)(C)(x) or §46-1-1(13)(A), and found in Subchapter 4-3 of these Transportation Rules.

Hazardous materials means:

(a) for general safety purposes the same meaning the term has under Federal Hazardous Materials Law (Title 49 U.S.C. §5101, et. seq.) and Federal Hazardous Materials Regulations (Title 49 CFR Parts 100–185, and as amended); and,

(b) for purposes of Commission hazardous materials permits the same meaning as the term defined in O.C.G.A. §46-11-3.

Highway or Public Highway means every public street, road, highway or thoroughfare of any kind in this state and includes the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (ref. O.C.G.A. §40-1-1 and § 46-1-1)

Household goods as used in connection with transportation means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is

(a) arranged and paid for by the householder.

(b) arranged and paid for by another party.

ICC means the United States Interstate Commerce Commission and any successor agencies.

Intercompany carrier means a carrier who engages in compensated intercompany hauling whereby transportation of property is provided by a person who is a member of a corporate family for other members of such corporate family. Intercompany carriers engaged in intrastate commerce must obtain property permits. (ref. O.C.G.A. § 46-1-1)

Interim Certificate means a certificate issued by the Commission for a twelve (12) month period prior to the issuance of a permanent certificate.

Lightweight commercial motor vehicle means any self propelled or towed vehicle less than 10,000 pounds gross vehicle weight rating or gross combination weight rating operated by: a for hire motor carrier; a carrier exempt from the economic jurisdiction of the Commission, but otherwise subject to the safety rules of the Commission; or a private carrier transporting hazardous materials in a quantity not required to be placarded.

Limousine or Luxury Limousine means any motor vehicle that meets the manufacturer's specifications for a luxury limousine with a designed seating capacity for no more than ten passengers and with a minimum of five seats located behind the operator of the vehicle, and which does not have a door at the rear of the vehicle designed to allow passenger entry or exit; further, no vehicle shall be permitted to be operated both as a taxicab and a limousine. (ref. O.C.G.A. §46-7-85.1)

Limousine carrier means any person operating a service regularly rendered to the public by furnishing transportation as a motor common carrier for hire, not over fixed routes, by means of limousines, or extended limousines, on the basis of telephone contract or written contract. (ref. O.C.G.A. §46-7-85.1)

Motor carrier of property means, for the purposes of insurance filing or obtaining of permits, a motor common or contract carrier engaged in transporting property, except household goods, in intrastate commerce in this state. (ref. O.C.G.A. §46-1-1)

Motor common carrier means every person owning, controlling, operating, or managing any motor propelled vehicle, and the lessees, receivers, or trustees of such person, used in the business of transporting for hire of persons or property, or both, otherwise than over permanent rail tracks, on the public highways of Georgia as a common carrier. (ref. O.C.G.A. §46-1-1)

Motor contract carrier means every person, except common carriers, owning, controlling, operating, or managing any motor propelled vehicle, and the lessees, or trustees of such persons or receivers appointed by any court used in the business of transporting persons or property for hire over any public highway in this state and not operated exclusively within the corporate limits of any city. (ref. O.C.G.A. §46-1-1)

Motor vehicle means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof, determined by the Public Service Commission. (ref. O.C.G.A. §46-1-1)

O.C.G.A. means the Official Code of Georgia, Annotated.

Out of service order means a prohibition against driving or operating a motor vehicle(s), moving or causing cargo to be moved, or conducting a motor carrier operation. (ref. 49 CFR §§383.5 and 390.5 and O.C.G.A. §40-5-152).

Passenger means a person who travels in a public conveyance by virtue of a contract, either express or implied, with the carrier as to the payment of the fare or that, which is accepted

as an equivalent therefor. The prepayment of fare is not necessary to establish the relationship of passenger and carrier. The term “passenger” shall mean and include express, mail, newspapers and/or baggage of passengers in the same vehicle or combination of vehicles with passengers, except as otherwise restricted in a certificate or by rule or regulation. (ref. O.C.G.A. §46-1-1)

Passenger permit means a motor carrier of passenger permit issued to motor carriers engaged in transporting more than 10 passengers (excluding the driver) for compensation in charter service.

Permit means:

(a) A registration permit issued by the Public Service Commission authorizing interstate transportation for hire exempt from the jurisdiction of the Interstate Commerce Commission or Federal Motor Carrier Safety Administration, or intrastate transportation for hire exempt from the jurisdiction of the Public Service Commission or intrastate transportation by a motor carrier of property (ref. O.C.G.A. §46-1-1); or

(b) A hazardous materials permit issued pursuant to the provisions of Chapter 11 of Title 46 of the Official Code of Georgia, Annotated (O.C.G.A. §46-11-4).

Person means any individual, firm, partnership, trust, private or public corporation, municipality, county, political subdivision, public authority, cooperative, association, joint stock association, company, or public or private organization of any character and includes any trustee, receiver, assignee or personal representative thereof. (ref. O.C.G.A. §46-1-1 and §46-7-85.1(6))

Principle Place of Domicile means the principal place in which a carrier conducts its business.

Private carrier means every person except motor common or contract carriers owning, controlling, operating, or managing any motor propelled vehicle, and the lessees or trustees thereof or receivers appointed by any court whatsoever, used in the business of transporting persons or property in private transportation not for hire over any public highway in this state. Private carriers are generally subject to the Commission’s safety and hazardous materials rules. Certain types of private carriers are exempted from the Commission’s jurisdiction. (ref. O.C.G.A. §46-1-1)

Property permit means a motor carrier of property permit issued pursuant to the provisions of O.C.G.A. §46-7-15.1.

RSPA means the Research and Special Programs Administration of the United States Department of Transportation or any successor agency.

Road-building material means fill dirt, rock or other sub-base, concrete, asphalt or any other material to be used in the actual construction of a public highway, provided, however, “road-building material” does not include materials designated as hazardous materials pursuant to Title 49 U.S.C. §5101, et. seq.

Railroad Corporation or Railroad Co. means all corporations, companies, individuals, or associations of persons, whether incorporated or otherwise, that engage in business as common carriers upon any of the lines of railroads operating in this state.

Single Source Leasing means whereby a leasing company whose primary business is leasing vehicles and who operates a fleet of ten or more vehicles provides vehicle equipment and drivers in a single transaction to a private carrier and is presumed to result in private carriage by the shipper if the requirements enumerated in O.C.G.A. §46-1-1(9)(C)(ix) are met and are subject only to the Commission's safety and hazardous materials rules.

Single State Registration Receipt means a registration receipt issued to interstate motor carriers by their base state, identifying the carrier and specifying the states in which the carrier is authorized to operate pursuant to 49CFR §367.5.

Single State Registration System (SSRS) means the requirements for registration of interstate carriers with their base state for issuance of registration receipts as described in 49 CFR Part 367.

Temporary Emergency Authority means a temporary grant of operating authority by the Commission under the provisions of Commission Transportation Rule 5-1-2.13. A Temporary Emergency is an immediate and unmet need for which there is no certificated carrier authorized and capable of meeting such need, or refusal by carrier to meet such need, which can be met by qualified applicant within not more than an aggregate of thirty days unless otherwise provided.

USDOT means the United States Department of Transportation.

Utility means any person who is subject in any way to the lawful jurisdiction of the Commission (ref. O.C.G.A. §46-1-1).

Vehicle means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof, determined by the Public Service Commission (ref. O.C.G.A. §46-1-1).

3-2.1 Operations Conducted in Certificate or Permit Name.

All operations must be conducted and business transacted under the name of the owner, or owner with an operating name, or name of incorporation shown on the certificate, permit, or registration receipt. Individuals, partnerships or corporate owners of certificates or permits may request a change in the doing business as (D.B.A.) name by filing a request with the Commission. Certificated carriers may make application for transfer of a permanent certificate to a different individual, partnership or corporate owner by complying with all the rules relating to transfer of permanent certificates (Commission Transportation Rule 5-1-2.15). Permitted carriers must apply for a new permit if there is a change in ownership.

3-2.3 Cancellation Due to Fraud.

Any certificate, permit or registration receipt obtained by any fraudulent means shall be subject to cancellation upon discovery of such.

3-2.5 Designation of Process Agent.

No for hire motor carrier shall engage in intrastate or interstate operations within the borders of the State of Georgia unless and until there shall have been filed with and accepted by this Commission a currently effective designation of a local agent for service and process. Said carrier shall file such designation by showing the name and address of such agent on forms prescribed by the Commission or by furnishing this Commission with a true copy of the designation of such agent filed with the Federal Highway Administration.

3-3.1 Civil Penalties - General. (See Chapter 10 for Civil Penalty Procedures).

(a) Any person, firm or corporation (hereinafter referred to as “utility”), subject to the jurisdiction of the Public Service Commission, who shall willfully violate any law administered by the Commission, or any duly promulgated regulation issued thereunder, and any utility who fails, neglects or refuses to comply with any order, after notice thereof, shall be liable to a penalty not to exceed \$15,000 for said violation and an additional penalty not to exceed \$10,000 for each day during which such violation continues.

(b)(1) The Commission, after hearing as provided for in Chapter 10 of the Commission’s rules, upon not less than 30 days notice, shall determine whether any utility has willfully violated any law administered by the Commission, or any duly promulgated regulation issued thereunder, or has failed, neglected or refused to comply with any order of the Commission, and upon appropriate finding thereof may impose such civil penalties as herein provided by order for such violations. In each such proceeding, the Commission shall maintain a record including all pleadings, a transcript of proceedings, a statement of each matter of which the Commission takes official notice, and all staff memoranda or data submitted to the Commission in connection with their consideration of the case. All penalties and interest thereon (at the rate of 10 percent per annum) recovered by the Commission shall be paid into the general fund of the State treasury.

(2) Any party aggrieved by a decision of the Commission may seek judicial review as provided in (c) below.

(c)(1) Any party who has exhausted all administrative remedies available before the Public Service Commission and who is aggrieved by a final decision of the Commission in a proceeding described in subsection (b) of this section may seek judicial review of the final order of the Commission in the Superior Court of Fulton County.

(2) Proceedings for review shall be instituted by filing a petition within 30 days after the service of the final decision of the Commission or, if a rehearing is requested, within 30 days after the decision thereon. A motion for rehearing or reconsideration after a final decision by the Commission shall not be a prerequisite to the filing of a petition for review. Copies of the petition shall be served upon the Commission and all parties of record before the Commission.

(3) The petition shall state the nature of the petitioner’s interest, the facts showing that petitioner is aggrieved by the decision and the ground, as specified in subsection (c)(6) of this section, upon which the petitioner contends that the decision should be reversed. The petition may be amended by leave of court.

(4) Within 30 days after service of the petition, or within such further time as is stipulated by the parties or as is allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceedings under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing

to stipulate that the record be limited may be taxed for the additional costs. The court may require or permit subsequent corrections or additions to the record.

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and there were good reasons for failure to present it in the proceedings before the agency, the court may order that the additional evidence be taken before the Commission upon such procedure as is determined by the court. The Commission may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(6) The review shall be conducted by the court without a jury and shall be confined to the record. The court shall not substitute its judgment for that of the Commission as to the weight of the evidence on questions of fact. The court may affirm the decision of the Commission or remand the case for further proceedings. The court may reverse the decision of the Commission if substantial rights of the petitioner have been prejudiced because the Commission's findings, inferences, conclusions, or decisions are:

- (i) In violation of constitutional or statutory provisions;
- (ii) In excess of the statutory authority of the Commission;
- (iii) Made upon unlawful procedure;
- (iv) Clearly not supported by any reliable, probative, and substantial evidence on the record as a whole; or
- (v) Arbitrary or capricious.

(7) A party aggrieved by an order of the court in a proceeding authorized under subsection (b) of this rule may appeal to the Supreme Court of Georgia or to the Court of Appeals of Georgia in accordance with Article 2 of Chapter 6 of Title 5 of O.C.G.A., the "Appellate Practice Act."

3-3.3 Criminal Penalties – General.

Every officer, agent, or employee of any company under the jurisdiction of the commission who violates or procures, aids, or abets any violation by any such company of any provision of Title 46 O.C.G.A.; or who fails to obey, observe, or comply with any order of the commission; or who aids or abets any such company in its failure to obey, observe, and comply with any such order, direction, or provision, shall be guilty of a misdemeanor. Such officer, agent, or employee shall be subject to prosecution in any county in which the company or the officer, agent, or employee violates any provision of this title or any provision of any order of the commission, or in any county through which the company operates. Such officer, agent, or employee shall also be subject to prosecution under this title in any county in which a subordinate agent or employee of the company violates any provision of this title, by the approval or direction, or in consequence of the approval or direction, of such officer, agent, or employee; and the agent or employee who locally in any county violates the rules or directions of said commission pursuant to the direction or authority of a superior officer may be called as a witness and be compelled to testify as to the authority by which he acted. Such testimony shall not be used against such subordinate employee or agent, nor shall he thereafter be subject to prosecution for said offense.